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09/742,669	12/20/2000	Angel Lozano	1298/0G828	9936

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EXAMINER

SCHEIBEL, ROBERT C

ART UNIT

PAPER NUMBER

2666

DATE MAILED: 08/06/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

**Application No.**

09/742,669

**Applicant(s)**

LOZANO, ANGEL

**Examiner**

Robert C. Scheibel

**Art Unit**

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 03 June 2004.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-26 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-26 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

## DETAILED ACTION

### *Response to Arguments*

1. Applicant's arguments, see section A on pages 9-10, filed 6/3/2004, with respect to the rejections under 35 U.S.C. 112 have been fully considered and are persuasive. The rejection of claims 6, 13, 18-19, 21, and 26 under 35 U.S.C. 112 has been withdrawn.

2. Applicant's arguments, see section B on pages 10-17, filed 6/3/2004, with respect to the first rejection under 35 U.S.C. 103 (a) (of claims 1-3, 5, 9, 11-16, 18, 22, and 24-26 over Kim in view of Turcotte) have been fully considered and are persuasive. This first rejection of claims 1-3, 5, 9, 11-16, 18, 22, and 24-26 has been withdrawn.

3. Applicant's arguments, see section C on pages 17-22 filed 6/3/2004, with respect to the second rejection under 35 U.S.C. 103(a) (of claims 1-26 over Kim in view of Sato) have been fully considered but they are not persuasive.

On pages 17-18, applicant summarizes the rejection and restates claim 1. On page 18, the applicant summarizes his argument by stating that Kim and Sato fail to teach, suggest, or make obvious the invention of the present application. The examiner disagrees with this assertion as indicated in more detail below. On pages 18-20, the applicant restates a portion of the specification which supports claim 1. Examiner agrees generally with this characterization of the disclosed subject matter; however, the rejection below is based on the claimed subject matter. On page 20, the applicant correctly submits that the examiner agrees that Kim fails to disclose expressly the

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limitation of using TDM/TDMA and CDM/CDMA for VBR data. The applicant then argues (on pages 20-21) that there is no suggestion or motivation to combine Kim and Sato. However, as stated in the original office action, Sato suggests the motivation of increasing the capacity of the channels as the reason to combine; the examiner maintains this position and thus disagrees with applicant's arguments in this regard. On pages 21-22, the applicant further argues that the combination of Kim and Sato would not disclose the limitations of claims 1 and 14 as, according to the applicant, Sato teaches away from Kim and would result in both CBR and VBR traffic being transmitted using both CDM/CDMA and TDM/TDMA. The examiner disagrees with this assertion and maintains the position stated in the original office action. As stated in the original office action, the teaching of Sato regarding the combination of CDM/CDMA and TDM/TDMA to improve channel capacity is used to modify only the VBR/TDMA portion of Kim in order to provide more capacity for VBR data. Thus, Kim and Sato, as modified, disclose all the limitations of the claims as stated below.

***Claim Rejections - 35 USC § 103***

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims **1-26** are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent 6,711,144 to Kim et al in view of U.S. Patent 5,511,068 to Sato.

Regarding claims **1 and 14**, Kim discloses a method of transmitting voice (CBR) and data (VBR) traffic using CDMA and TDMA. In the abstract and in lines 47-55 of column 1, Kim discloses the step of determining whether the data stream is voice (CBR) or data (VBR) by indicating that these two types of traffic are transmitted using different multiple access methods; it is essential that the data stream be classified as one of these two types in order to be able to transmit them using different multiple access methods. Kim discloses the voice traffic being sent using CDMA and the data traffic being sent using TDMA in the last 3 lines of the abstract and in lines 47-55 of column 1. These lines anticipate the step of communicating the CBR data stream using Code Division Multiplexing/Code Division Multiple Access ("CDM/CDMA") with first spreading factor codewords, whereby a CBR-CDMA data signal is generated. These lines also disclose the limitation of the step of transmitting VBR data by using Time Division Multiplexing/Time Division Multiple Access ("TDM/TDMA"). Regarding claim 14, the BS ("B") of Figure 5 discloses the transmitter.

Kim does not disclose expressly the limitation using a combination of TDMA and CDMA with second spreading factor codewords (in the step of communicating the VBR data stream).

Sato teaches the use of a combination of multiple access techniques in transmitting data in lines 2-6 of the abstract.

Kim and Sato are analogous art because they are from the same field of endeavor of multiple access techniques for wireless communications systems.

At the time of the invention it would have been obvious to a person of ordinary skill in the art to modify Kim to transmit the data (VBR) using a combination of CDMA and TDMA.

The motivation for doing so would have been to increase the capacity of channels as suggested by Sato in lines 25-27 of column 2.

Therefore, it would have been obvious to combine Sato with Kim for the benefit of increasing the capacity of channels to obtain the invention as specified in claims 1 and 14.

Regarding claims **4, 7-8, 17, and 20-21**, with the limitations of the parent claims 1 and 14 addressed above, Kim discloses the step of spreading the VBR data (in claims 4, 7, 17, and 20) and the step of then transmitting the data (in claims 4, 7, 17, and 20) in lines 13-15 of column 5. Kim also discloses in

Kim does not disclose expressly the step/limitation of placing the spread data signal in data packets or the step/limitation of interleaving the data packets with TDM/TDMA (in claims 4, 7, 17, and 20). Kim also does not disclose expressly the step/limitation of despreading the TDMA-CDMA signal using the second spreading factor and necessary processing (in claims 8 and 21) or the step/limitation of deinterleaving the TDMA-CDMA data signal with TDM/TDMA (in claims 8 and 21).

Sato discloses the step/limitation of placing the CDMA data signal in data packets in the modulator 45 of Figure 2 and described in lines 24-30 of column 5. The spread signal sequence tdc is the CDMA data signal, and the sequence of modulated signals are the data packets. Sato discloses the step/limitation of interleaving the data

packets with TDM/TDMA to generate a CDMA-TDMA data signal in the burst transmitter 47 of Figure 2. The burst transmitted out the antenna 51 of MS1 is a CDMA-TDMA data signal and it is interleaved with the analogous burst transmitted from MS2 and other mobile stations.

Sato also discloses the step of despreading the VBR-TDM-CDM or VBR-TDMA-CDMA data signal using the second spreading factor codeword and necessary processing in the adaptive filter 57 in Figure 2. As described in lines 30-33 of column 6, the filter performs an inverse spread operation. Sato discloses the step of deinterleaving the VBR-TDM-CDM or VBR-TDMA-CDMA data signal with TDM/TDMA in the memory 81 of Figure 6. As described in lines 7-13 of column 9, the memory is capable of storing the samples for a single time slot; the data for that time slot has thus been deinterleaved from the TDMA-CDMA signal received by the antenna 53.

Kim and Sato are analogous art because they are from the same field of endeavor of multiple access techniques for wireless communications systems.

At the time of the invention, it would have been obvious to a person of ordinary skill in the art to modify Kim to transmit and receive the data (VBR) using the transmitter/method shown in MS1 and MS2 of Figure 2 and the receiver/method shown in BS1 and BS2 of Figure 2.

The motivation for doing so would have been to increase the capacity of channels as suggested by Sato in lines 25-27 of column 2.

Therefore, it would have been obvious to combine Sato with Kim for the benefit of increasing the capacity of channels to obtain the invention as specified in claims 4, 7-8, 17, and 20-21.

Regarding claims **2 and 15**, with the limitations of the parent claims 1 and 14 addressed above, Kim discloses the step of spreading the CBR data and the step of then transmitting the data in lines 13-15 of column 5.

Regarding claims **3 and 16**, with the limitations of the parent claims 1 and 14 addressed above, Kim discloses the step of spreading the VBR data stream and the step of then transmitting the data in lines 13-15 of column 5.

Regarding claims **5, 6, 18, and 19**, with the limitations of the parent claims 1, 4, 14, and 17 addressed above, Kim discloses the limitation of despreading and extracting such signal using the corresponding first spreading factor codeword in lines 62-65 of column 3. This passage indicates that the receiver must know the Walsh codes for use in receiving the voice transmissions; this indicates that the receiver will despread the data using these known codes.

Regarding claims **9, 10, 22, and 23**, with the limitations of the parent claims 1, 4, 14, and 17 addressed above, Kim discloses the limitation that the first spreading factor codewords are calculated based on the data rate required for the corresponding applications in Figures 3 and 4. As described in lines 48-62 of column 4, these figures show 2 different designs for communicating the voice (CBR) traffic. The lines from 59-62 of column 4 indicate that these options can be used simultaneously, one for one user and the other for another user. The two methods differ in the rate of data output from



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the convolutional encoder 34; based on this different rate of data, the Walsh codes are calculated differently. The limitation of calculating the second spreading factor codeword based on the available transmission power after the necessary power has been allocated to all the signals using the first spreading factor codewords is suggested by lines 43-46 of column 5. This passage teaches the concept of basing the admission of an additional call (using the first spreading factor codewords) based on the available power.

Kim does not disclose expressly applying this concept to the second spreading factor codewords. However, it would have been obvious to apply this same concept to the second spreading factor codewords used in the combination of Kim and Sato described above in the rejection of claims 1 and 14. The motivation for doing so would have been to better utilize the resources as suggested by Kim in lines 50-53 of column 5. Therefore, it would have been obvious to modify the combination of Kim and Sato to calculate the second spreading factor codewords based on the available transmission power for the benefit of better utilization of resources to obtain the invention as specified in claims 9, 10, 22, and 23.

Regarding claims **11 and 24**, with the limitations of the parent claims 1 and 14 addressed above, Kim discloses the limitation that communication system simultaneously accepts CBR and VBR data streams, the CBR and VBR data streams being communicated as a single aggregated signal in lines 18-20 of column 2 which indicates that the voice (CBR) and data (VBR) are supported on the same carrier.

Regarding claims **12 and 25**, with the limitations of the parent claims 1 and 14 addressed above, Kim discloses the limitation that the transmitter modifies first spreading factor codewords on-the-fly for the CBR portion of the signal in lines 50-53 of column 5. This passage indicates that the Walsh codes are reassigned as the system is running.

Kim does not disclose expressly the limitation of the transmitter modifying the second spreading factor codewords on-the-fly for the VBR portion of the signal. However, it would have been obvious to apply this same concept of reassigning the codewords when new VBR data arrived to the second codewords in the combination of Kim and Sato described in the rejection of claims 1 and 14. The motivation for doing so would have been to better utilize the resources as suggested by Kim in lines 50-53 of column 5. Therefore, it would have been obvious to modify the combination of Kim and Sato to reassign the second spreading factor codewords when new VBR data arrived for the benefit of better utilization of resources to obtain the invention as specified in claims 12 and 25.

Regarding claims **13 and 26**, with the limitations of the parent claims 1 and 14 addressed above, Kim does not expressly disclose the limitation that the first and second spreading factor codewords are one of the same or different from each other. However, Kim does disclose that some of the first codewords used for voice can be the same in lines 8-9 of column 4. It would have been obvious to reuse the same Walsh codes in MSs for voice and data (first and second spreading factor codewords) in the combination of Kim and Sato. The motivation for doing so would have been for better

utilization of the bandwidth by reusing these codewords. Therefore, it would have been obvious to modify the combination of Kim and Sato for the benefit of better utilization of bandwidth to obtain the invention as specified in claims 13 and 26.

### ***Conclusion***

3. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Robert C. Scheibel whose telephone number is 703-305-9062. The examiner can normally be reached on Monday-Friday from 6:30-3:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Seema S. Rao can be reached on 703-308-5463. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



**FRANK DUONG**  
**PRIMARY EXAMINER**



Robert C. Scheibel  
Examiner  
Art Unit 2666